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State of Minnesota

# OMBUDSMAN FOR CORRECTIONS



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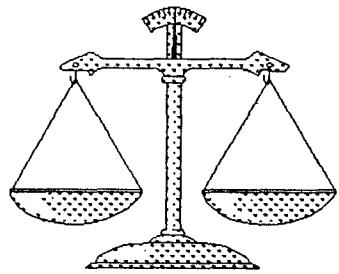
FISCAL YEAR 1991 - 1992

ANNUAL REPORT

**FISCAL YEAR 1992**

**REPORT TO THE GOVERNOR**

**The Honorable Arne H. Carlson  
Pursuant to Minnesota Statute 241.45 Subdivision 2**



**Patricia Seleen  
Ombudsman for Corrections  
1885 University Avenue, Suite 395  
St. Paul, Minnesota 55104  
(612) 643-3656**

**December, 1992**

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## **Why An Ombudsman**

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The term Ombudsman is becoming more familiar in our society as governments, corporations, medical and educational systems look to cost effective and efficient means of helping people resolve problems. The Ombudsman concept provides a safeguard that every citizen will be provided an avenue to voice concerns and grievances and permit opportunity for resolution prior to seeking remedy within the costly and cumbersome judicial system.

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## **Mission Statement**

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The Ombudsman for Corrections exists to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections. It is a separate, independent state agency, created by M.S. 241.41. The Ombudsman for Corrections goal is to provide for safe, secure, and humane living conditions for inmates and staff in Minnesota's correctional settings. The agency's sole purpose is to conduct investigations of complaints lodged by inmates, staff, and other interested sources. Most complaints stem from inmates who are under the control of the Department of Corrections, although the Ombudsman also has the responsibility to investigate complaints and requests arising from friends, relatives, and inmates incarcerated in jails and workhouses in the thirty counties operating under the Minnesota Community Corrections Act (Chapter 401). Other activities related to the investigation of complaints include making recommendations to the Minnesota Department of Corrections based on the findings of investigations, submitting an annual report to the Governor and providing information to the legislature as requested. The results of the agency's activities are safer prison environments, fewer costly law suits by inmates, and a rapid response system for complaint resolution which serves to relieve penal institutions of tension and lessen the likelihood for disturbances by inmates.

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## **Twenty Year Summary**

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The Ombudsman for Corrections was established in 1972 in response to the need for prison reform. The concept for an Ombudsman was proposed by then Commissioner Fogel as an outlet for inmate grievances. Initial funding for the office was provided by a federal LEAA grant. The LEAA proposal was for "an office that would be accountable to the Governor, with authority to investigate decisions, acts and other matters of the Department of Corrections, so as to promote higher standards of competence, efficiency and justice in the administration of laws."

Using similar language of that early grant, the Minnesota Legislature passed a bill in 1973 creating the Office of the Ombudsman for Corrections as an independent state agency to ensure that justice and fairness would prevail in the state correctional facilities. The Ombudsman's office began with only two staff persons, but grew to six by the year's end. The current staffing level for the office is nine persons.

As mentioned earlier, 1972 was a time of prison reform in the State of Minnesota. The Ombudsman certainly had his work cut out for him during this period; the Ombudsman became involved in a situation where the release of a hostage held by three inmates was negotiated. Following another investigation, agreement was reached with the Adult Corrections Commission (Parole Board) to give its reasons for denial of parole in writing. Other recommendations were made to clarify the disciplinary process with a closer adherence to due process rules and procedures.

In that same year, the Ombudsman collaborated with Legal Assistance to Minnesota Prisoners (LAMP) in a law suit which resulted in due process for all State of Minnesota prisoners charged with a disciplinary offense. The Consent Decree stipulated to and implemented on October 15, 1973 is still in effect today.

Although initial reform was well underway, the Ombudsman made recommendations resulting in major changes in the other correctional facilities. At St. Cloud, an inmate/staff advisory council was created. In 1976, a policy was implemented at Stillwater where inmates were given written reasons if discharged from their jobs and they would be afforded an opportunity to appeal their dismissal.

Following a disturbance at St. Cloud on February 19, 1981, the Ombudsman made the following recommendations which were accepted by the institution:

- That the Ombudsman be added to the list of people notified whenever a disturbance occurs at any of the Department of Corrections facilities;
- That at future disturbance involving hostages or potential hostages, correctional facility administrators refrain from issuing policy statements concerning the institution's negotiation posture;
- That staff training in human and race relations be instituted in the institution's overall training plan. In addition, that the DOC and all correctional facilities review all Departmental Training Plans with regard to race and human relations and integrate this component into the plan wherever it is lacking, and;
- The St. Cloud Correctional Facility make every effort to recruit and hire Indian Correctional Officers as vacancies become available.

In 1983, the Ombudsman investigated a major disturbance at MCF Stillwater. Some of the recommendations that were made and accepted following the investigation include:

- Reactivate the Cell Hall Advisory Council;
- Purchase, install, and use videotaping equipment to provide thorough coverage and an accurate record for assessment of incidents;
- Require that Tower staff log incidents which occur in the yard, and;
- Improve procedures for regulating and monitoring unscheduled gatherings.

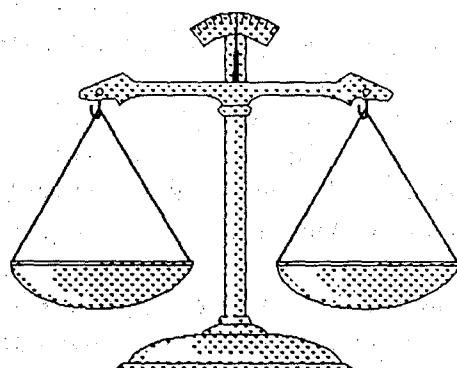
The Ombudsman has made numerous recommendations over the years concerning medical and mental health treatment in correctional facilities. Some of the recommendations which have been implemented include:

- A policy be developed to assist staff in determining when it is necessary to refer an inmate to the doctor or nurse;
- The policy for the use of the "911" number be more specific, and;

- Development of a procedure to communicate to staff information related to an inmates medical history, especially if the reoccurrence of those problems could create a present danger to one's health.

These represent a few of the many recommendations made over the last twenty years. Other activities of the office include sponsoring seminars on juvenile issues and hosting the United States Association of Ombudsman annual conference. The Ombudsman and staff have participated in numerous correctional boards and task forces in an advisory capacity. The Deputy Ombudsman recently participated on the Jail Standards Task Force. The Ombudsman is advised of and frequently attends mental commitment hearings of prison inmates in Washington county. Office staff also participate in the training of all new DOC staff as they go through the Training Academy at Sauk Center.

We are proud of our twenty years of service in Minnesota Corrections! The unique role of the Ombudsman ensures that quality corrections continues in our state system.



## **Staff**

**Patricia Seleen**

**Ombudsman\***

**Melvyn H. Brown**

**Deputy Ombudsman\*\***

## **Investigators**

### **Primary Institutions:**

**Mary Jo Reiter**

Shakopee, Sauk Center, North West Regional Corrections Center , Hennepin County

**Elbert Simmons**

St. Cloud, Lino Lakes, Ramsey County

**Judith M. Williams**

Stillwater, Faribault, Moose Lake, Willow River

**Maxine Regguinti**

Oak Park Heights, North East Regional Correctional Center, Red Wing, St. Cloud

## **Support Staff**

**Laura Ochs**

**Executive I**

**Stella Arneson**

**Clerk Typist III\*\*\***

**Dominique Kaufmann**

**Clerk Typist I**

## **Student Worker**

**Mark W. Olson**

\* Patricia Seleen, appointed by Governor Arne Carlson, January 13, 1992

\*\* Melvyn H. Brown, Acting Ombudsman, January 8, 1991 - January 12, 1992

\*\*\* Stella Arneson, resignation effective October 8, 1991

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## **Ombudsman Activity**

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The agency received 3,710 contacts in fiscal year 1992. Most of the contacts fall within the fourteen categories identified in the statistics section of this report. We should note the nuances of the contacts we received are as individual and interesting as the people we deal with.

This section offers a sampling of the cases received this past year that are representative of the activities of the Ombudsman.

### **INMATE DENIED CLOTHES AND PERSONAL HYGIENE PRODUCTS**

The Ombudsman investigated a complaint from an inmate at St. Cloud stating that he had been placed in a quiet cell for three days with only a blanket following an incident where he threw soup at a guard. The inmate stated he was not allowed to have any clothes except his underwear nor any personal hygiene products.

The investigation revealed two policies for the use of the quiet cell; one stated it was only to be used for out of control inmates and the other stated inmates were to be placed in the quiet cell automatically after an assault on a staff person.

After investigating the complaint, the investigator concluded there was no evidence that this inmate was out-of-control. It was determined that another segregation cell could have been used as effectively to deal with the situation.

The investigator recommended that the institution use the quiet cell only for out-of-control inmates and that they be allowed clothing and personal hygiene products. The institution accepted this recommendations.

## **HALFWAY HOUSE CRITERIA NOT MET**

We were contacted by an inmate at MCF Lino Lakes who complained that the treatment program staff had changed his parole plan. The inmate claimed that the halfway house requirement had been lifted, but now he was being told he must go to a halfway house upon release from MCF Lino Lakes.

The investigator spoke with the Office of Adult Release (OAR) about the inmate's concerns. It was the OAR's decision that the criteria for a halfway house had not been met and the inmate would be released without residential programming.

## **SRD QUESTIONED**

An inmate from MCF Oak Park Heights complained that his Supervised Release Date (SRD) was arbitrarily changed.

During the investigation we found that an audit had been done prior to the inmate's release which resulted in his sentence being adjusted. The investigator concluded that MCF Oak Park Heights had complied with their policy on SRD's.

## **CONSISTENCY COMMITTEE FORMED**

In 1992, MCF Moose Lake began housing both male and female adult inmates. This presented an opportunity for the Ombudsman to review the differences in application of discipline policies between the two sexes. Subsequent to the Ombudsman's Office raising issues of disparity in how discipline was handled, the DOC established a Consistency Committee to look at such issues at the Minnesota Correctional Facilities.

## **INMATE RECEIVES MEDICATION**

We were contacted by a resident at the Hennepin County Adult Corrections Facility (HACF) for men that he was not receiving his prescribed medication. The investigation revealed that his medication had been prescribed by an outside physician. The policy at the HACF is that all medication is reviewed

by the institution's physician; the resident's prescription had been reviewed by the physician and another medication was substituted. The institution policy was followed.

## **OMBUDSMAN MAKES RECOMMENDATIONS TO IMPROVE SAFETY IN JUVENILE SEX OFFENDER TREATMENT PROGRAM**

The Ombudsman for Corrections was notified by the Hennepin County Home School (HCHS) in May of 1991, that 28 alleged incidents of sexual abuse had occurred in one of the sex offender program cottages. We were advised that "Hennepin County" would be conducting their own investigation and that Minnetonka police and the DOC Inspections Unit had also been advised of the allegations.

The Ombudsman elected to investigate the situation with a focus on how the program had been run and what improvements, if any, could be made to prevent future allegations of this magnitude. We thought both staff and residents would benefit from this type of investigation.

The investigation resulted in nine recommendations being made to the HCHS, eight were accepted and implemented.

## **MENTAL HEALTH SERVICES FOR INCARCERATED WOMEN TO BE IMPROVED**

We received a complaint from a distraught inmate at Shakopee. The inmate was suicidal and had been placed in a segregation cell next to inmates placed in segregation for punishment. She stated that another inmate had been taunting her and encouraging her to commit suicide; upsetting her even more.

After speaking with the woman and staff, the Deputy Ombudsman decided it would be more humane to have the inmate placed where she would be directly monitored by a staff person until she was more stable. The staff agreed to this arrangement and the inmate was placed in a recreation area where she was continuously monitored by staff.

The lack of treatment for emotionally disturbed female inmates has been a concern of the Ombudsman for years. We have been assured by the DOC that a ten bed mental health unit is included with the new expansion at Shakopee.

## **JUDGE CONCERNED ABOUT INMATE SAFETY**

A judge contacted us after receiving a request for a sentence reduction from an inmate who felt unsafe in an institution after filing sexual assault charges against a staff person in another institution. The Ombudsman's Office investigated and was able to assure the judge of the inmate's current safety.

## **INDUSTRY JOBS IN DEMAND**

A frequent complaint at MCF Stillwater is that an inmate has been denied an industry job and has been forced to take a lower paying "state job". Although the number of industry positions varies, it is usually around 150. MCF Stillwater's population is now approaching 1,400.

MCF Stillwater has established criteria for placement in the industry positions. The criteria includes such things as classification, aptitude, and the Program Review Team's recommended plan.

The resolution to many of these complaints is that the policy has been followed.

## **OMBUDSMAN EXPLAINS CHANGES**

When the legislature enacts new legislation which impacts on inmates, such as, the DNA testing requirements for sex offenders or public risk monitoring, inmates often feel angry.

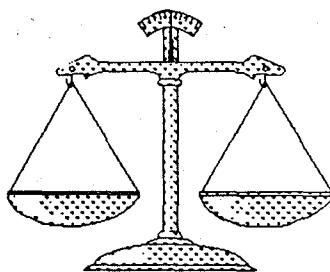
The Ombudsman frequently receives complaints following these legislative changes. We deal with the frustrations and anger of the inmates routinely. The investigators respond to the complaints by diffusing the hostilities and explaining the impact of the changes to those affected.

Most inmates view the Ombudsman's office as a neutral, objective agency. It is our experience that inmates often accept these explanations from our staff without further problems.

## **SUMMARY**

The examples cited in these last pages demonstrate some of the ways the Ombudsman meets the challenge of its mission: **to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections.**

The ability to function in an independent manner from the Department of Corrections allows us to make impartial and fair recommendations as to the administration of corrections. The Ombudsman becomes the safety net in the system. This role will become more critical as corrections continues to expand to meet the needs of increasing populations. Growth in any bureaucratic system presents problems in terms of vulnerability to administrative errors and traditional means of self-regulation become more difficult. Unaddressed needs often exist on the part of the system and the system users. The role of the Ombudsman is critical in bridging unfilled gaps and drawing attention to procedures in need of correction.



FISCAL YEAR

1991 - 1992

STATISTICS

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## Ombudsman's Jurisdiction

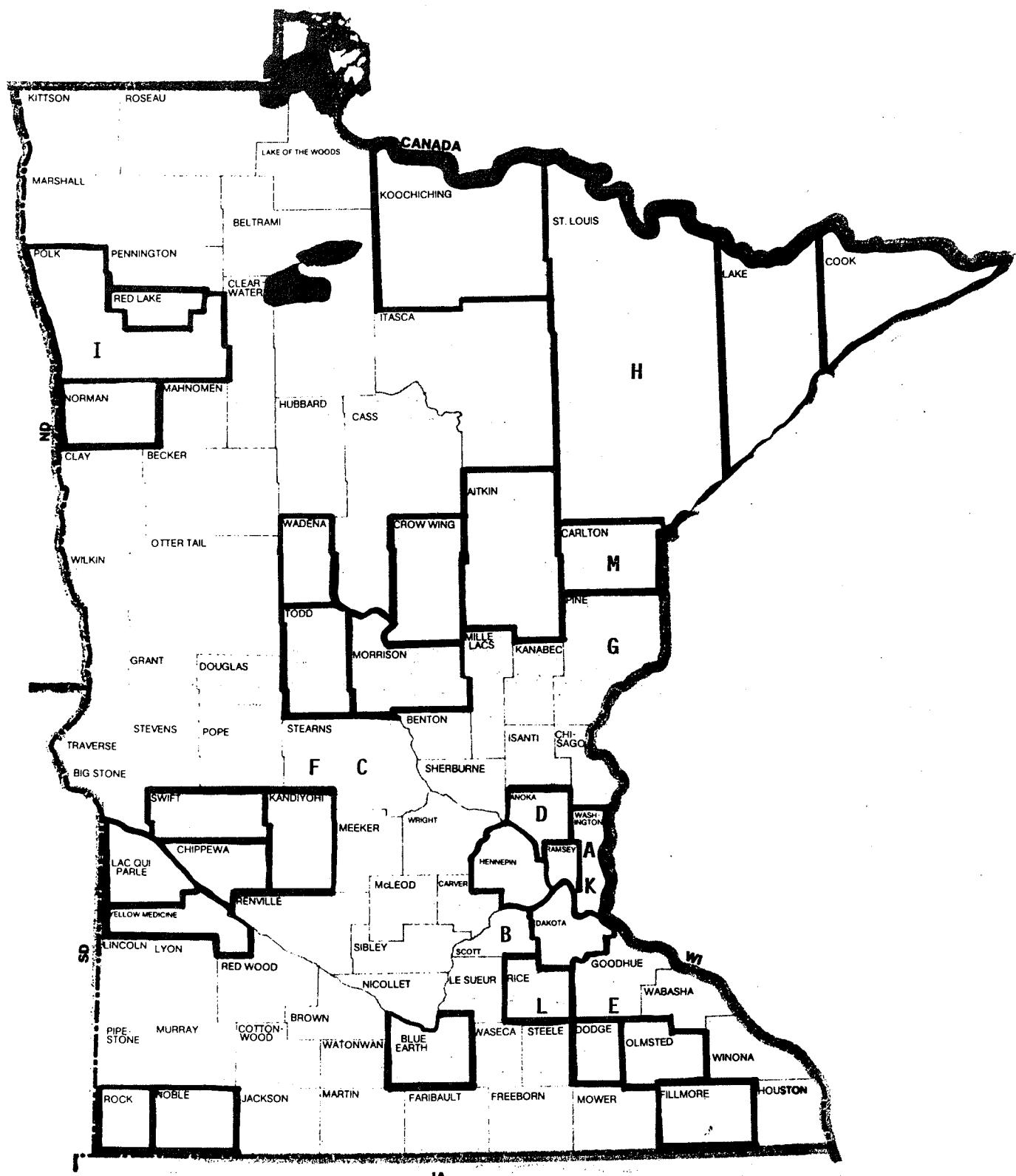
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### DEPARTMENT OF CORRECTIONS FACILITIES

- A. MCF-STW -- Minnesota Correctional Facility - Stillwater
- B. MCF-SHK -- Minnesota Correctional Facility - Shakopee
- C. MCF-SCL -- Minnesota Correctional Facility - St. Cloud
- D. MCF-LL -- Minnesota Correctional Facility - Lino Lakes
- E. MCF-RW -- Minnesota Correctional Facility - Red Wing
- F. MCF-SCR -- Minnesota Correctional Facility - Sauk Centre
- G. MCF-WRC -- Minnesota Correctional Facility - Willow River
- H. NERCC -- North East Regional Correctional Center - Saginaw
- I. NWRCC -- North West Regional Correctional Center - Crookston
- K. MCF-OPH -- Minnesota Correctional Facility - Oak Park Heights
- L. MCF-FRB -- Minnesota Correctional Facility - Faribault
- M. MCF-ML -- Minnesota Correctional Facility - Moose Lake

### COMMUNITY CORRECTIONS ACT COUNTIES

- |                |                     |
|----------------|---------------------|
| 1. Polk        | 16. Yellow Medicine |
| 2. Red Lake    | 17. Lac Qui Parle   |
| 3. Norman      | 18. Anoka           |
| 4. Koochiching | 19. Ramsey          |
| 5. St. Louis   | 20. Hennepin        |
| 6. Lake        | 21. Dodge           |
| 7. Cook        | 22. Olmsted         |
| 8. Carlton     | 23. Fillmore        |
| 9. Aitkin      | 24. Washington      |
| 10. Crow Wing  | 25. Rock            |
| 11. Wadena     | 26. Noble           |
| 12. Todd       | 27. Blue Earth      |
| 13. Morrison   | 28. Kandiyohi       |
| 14. Swift      | 29. Rice            |
| 15. Chippewa   | 30. Dakota          |



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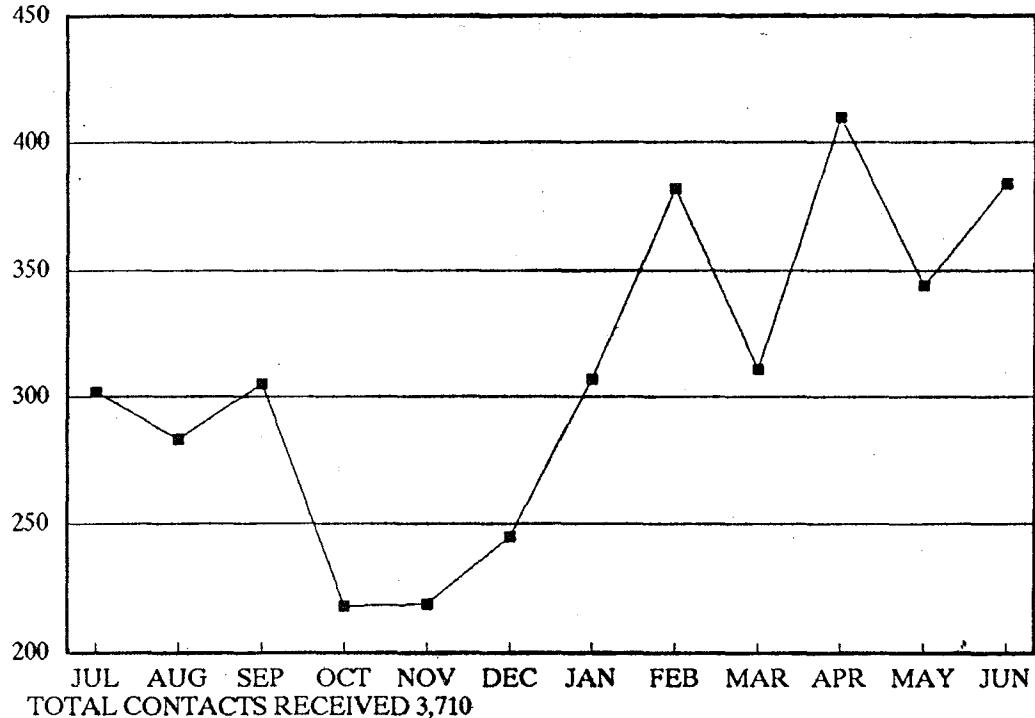
## Caseload Summary

Carry Overs from Fiscal Year 1991	19
Contacts Received in Fiscal Year 1992	<u>3,710</u>
Fiscal Year 1992 Total Caseload	3,729

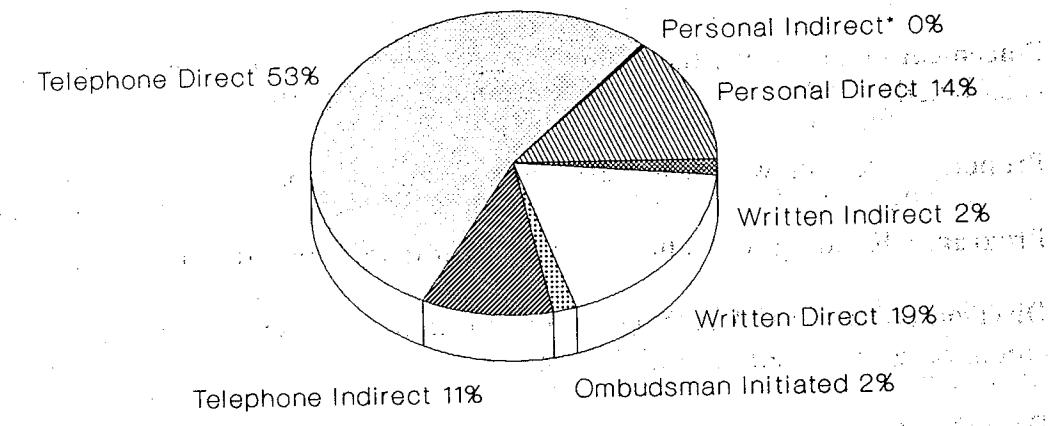
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Fiscal Year 1992 Cases Closed	3,708
Unopened Cases	<u>4</u>
Carry Overs to Fiscal Year 1993	17

## 1992 CONTACTS RECEIVED



## INITIAL CONTACT WITH AGENCY METHODS OF COMMUNICATION



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## **Type and Description of Contacts**

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The Ombudsman systematically categorizes each contact received to help further define the source(s) of changes in both the number and nature of cases and to facilitate year-to-year comparisons.

### **CATEGORIES**

**Parole** - Concerning any matter under the jurisdiction of the releasing authority, e.g., work release, supervised release, special review, etc.

**Medical** - Concerning availability of treatment or accessibility of a staff physician or other medical professional.

**Legal** - Involving legal assistance or problems with getting a response from the Public Defender or other legal counsel.

**Placement** - Concerning the facility, area, or physical unit to which an inmate is assigned.

**Property** - Dealing with loss, destruction, or theft of personal property.

**Program** - Relating to training, treatment program, or work assignment.

**Discrimination** - Concerning unequal treatment based upon race, color, creed, religion, national origin, or sex.

**Records** - Concerning data on inmate or staff files.

**Rules** - Regarding administrative policies establishing regulations which an inmate, staff member, or other person affected by the operation of a facility or program is expected to follow, e.g., visits, disciplinary hearings, dress, etc.

**Threats/Abuse** - Concerning threats of bodily harm, actual physical abuse, or harassment to an inmate or staff.

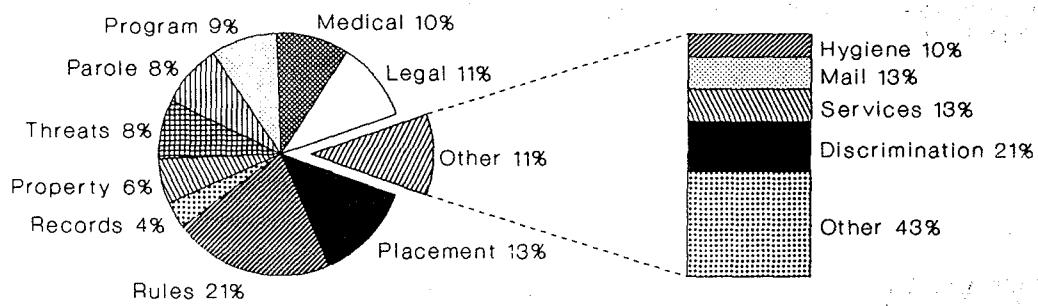
**Mail** - Anything that may impact upon the normal, legal flow of mail in or out of an institution or how it is handled by institution staff.

**Hygiene** - Having to do with access to supplies and necessities for personal hygiene or the hygiene of physical surroundings.

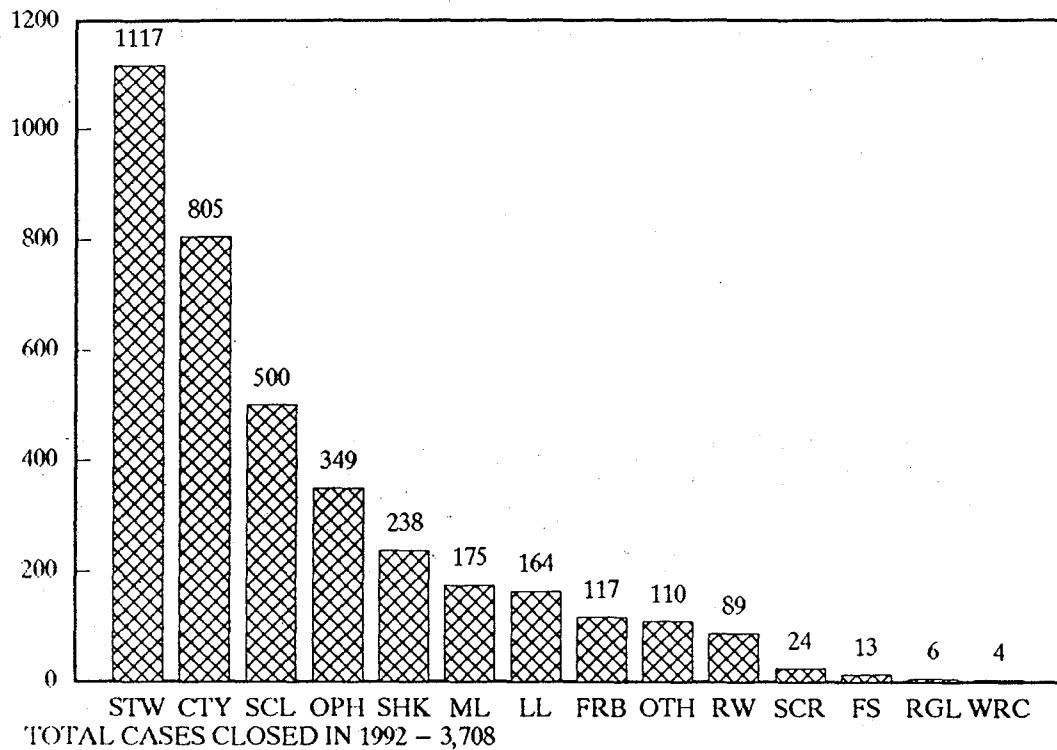
**Services (Institution)** - Regarding heat, water, window screens, blankets, etc.

**Other** - Contacts not covered in the previous categories, e.g., food, etc.

## TOTAL CLOSED CASES BY CATEGORY



## CLOSED CASES BY INSTITUTION



STW - Stillwater  
 CTY - County  
 SCL - St. Cloud  
 OPH - Oak Park Heights  
 SHK - Shakopee  
 ML - Moose Lake  
 LL - Lino Lakes

FRB - Faribault  
 OTH - Other  
 RW - Red Wing  
 SCR - Sauk Centre  
 FS - Field Service  
 RGL - Regional Facilities  
 WRC - Willow River Camp

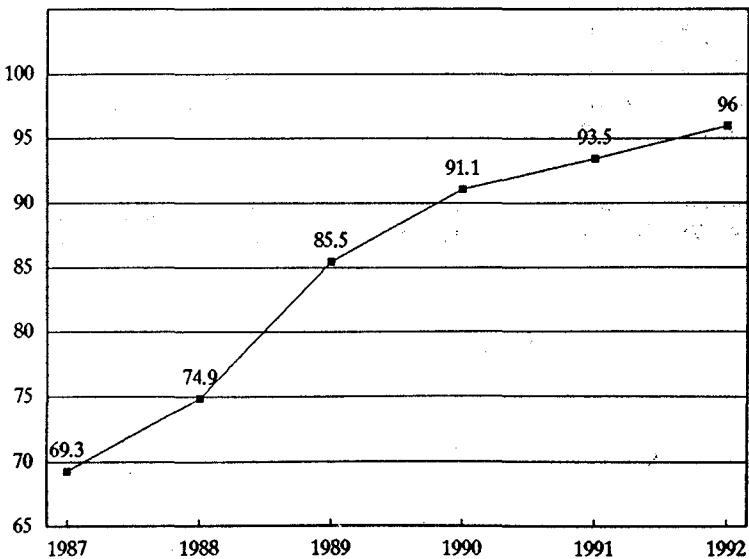
**INITIAL RESPONSE TIME** refers to the time taken to respond to a request. The Ombudsman's goal is to respond to cases within five days of receiving the request.

Fiscal Year 1992	Same Day Response	=	3,393
	1 - 9 Days	=	314
	10 plus Days	=	<u>1</u>
Grand Total of Closed Cases		=	3,708

**TIME TAKEN TO RESOLVE CASES** is a priority to the Ombudsman and is seen as a sign of efficiency. Ninety five percent of closed cases were resolved in fifteen days this reporting period.

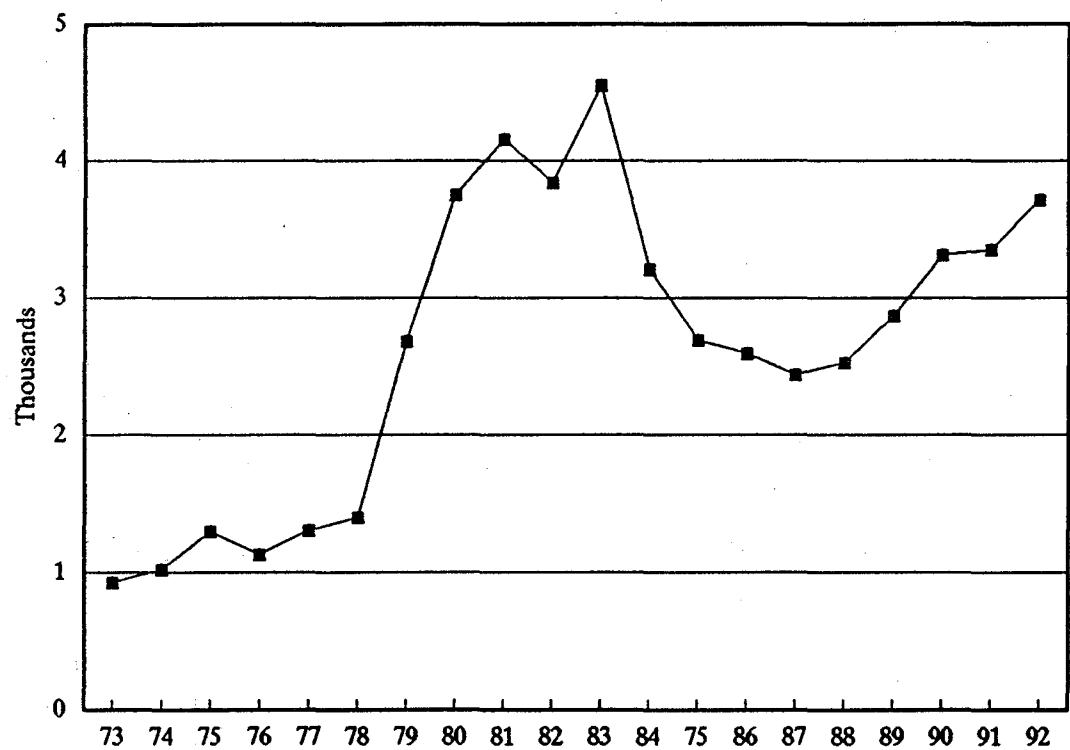
Fiscal Year 1992	0 - 15 Days	=	3,558
	16 - 30 Days	=	131
	31 plus Days	=	<u>19</u>
Grand Total Closed Cases		=	3,708

#### **PERCENTAGE OF CASES RESOLVED IN 0-15 DAYS**

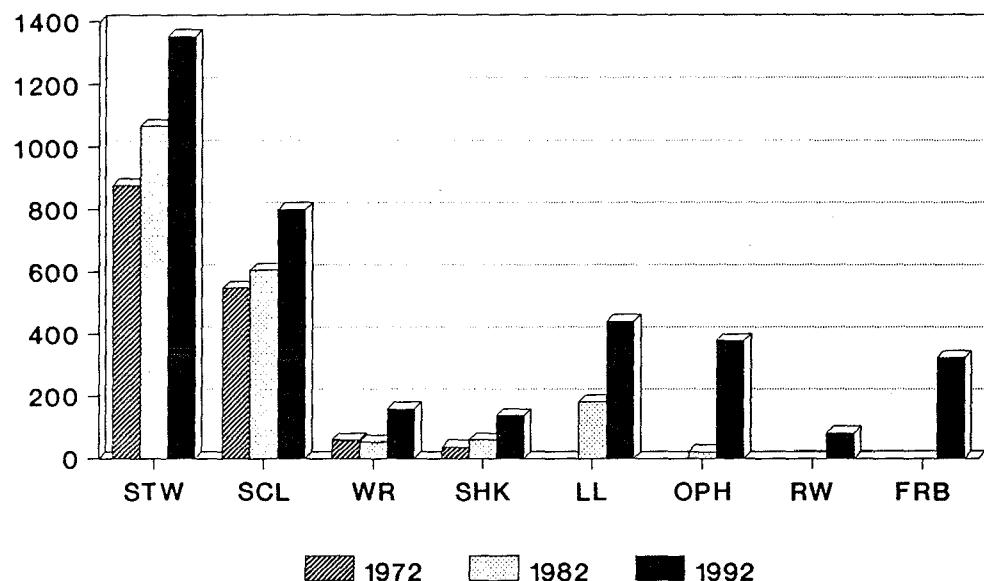


**Twenty Years of  
Data History**

**TOTAL CONTACTS RECEIVED 1973 – 1992**



## AVERAGE DAILY ADULT POPULATION 1972 - 1992 STATE INSTITUTIONS



\* Information from the Department of Corrections statistics.

Oak Park Heights Opened	1982
Red Wing Accepted Adults	1983
Faribault Opened	1989
Moose Lake/Willow River Combined Stats	1992

KEY:	STW	=	Stillwater
	SCL	=	St. Cloud
	WR	=	Willow River
	SHK	=	Shakopee
	LL	=	Lino Lakes
	OPH	=	Oak Park Heights
	RW	=	Red Wing
	FRB	=	Faribault



## APPENDIX

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## **Statute**

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### **241.41 OFFICE OF OMBUDSMAN; CREATION; QUALIFICATIONS; FUNCTION.**

The office of the ombudsman for the Minnesota state department of corrections is hereby created. The ombudsman shall serve at the pleasure of the governor in the unclassified service, shall be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy. No person may serve as ombudsman while holding any other public office. The ombudsman for the department of corrections shall be accountable to the governor and shall have the authority to investigate decisions, acts and other matters of the department of corrections so as to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections.

### **241.42 DEFINITIONS.**

Subdivision 1. For the purposes of sections 241.41 to 241.45, the following terms shall have the meanings here given them.

Subd. 2. "Administrative agency" or "agency" means any division, official, or employee of the Minnesota department of corrections, the commissioner of corrections, the board of pardons and regional correction or detention facilities or agencies for correction or detention programs including those programs or facilities operating under chapter 401, but does not include:

- (a) any court or judge;
- (b) any member of the senate or house of representatives of the state of Minnesota;
- (c) the governor or the governor's personal staff;
- (d) any instrumentality of the federal government of the United States;
- (e) any political subdivision of the state of Minnesota;
- (f) any interstate compact.

Subd. 3. "Commission" means the ombudsman commission.

Subd. 4. [Repealed, 1976 c 318 s 18]

#### **241.43 ORGANIZATION OF OFFICE OF OMBUDSMAN.**

Subdivision 1. The ombudsman may select, appoint, and compensate out of available funds such assistants and employees as deemed necessary to discharge responsibilities. The ombudsman and full-time staff shall be members of the Minnesota state retirement association.

Subd. 2. The ombudsman shall designate a deputy ombudsman in the unclassified service.

Subd. 3. The ombudsman may delegate to staff members any of the ombudsman's authority or duties except the duty of formally making recommendations to an administrative agency or reports to the office of the governor, or to the legislature.

#### **241.44 POWERS OF OMBUDSMAN; INVESTIGATIONS; ACTION ON COMPLAINTS; RECOMMENDATIONS.**

Subdivision 1. **Powers.** The ombudsman may:

(a) prescribe the methods by which complaints are to be made, reviewed, and acted upon; provided, however, that the ombudsman may not levy a complaint fee;

(b) determine the scope and manner of investigations to be made;

(c) Except as otherwise provided, determine the form, frequency, and distribution of conclusions, recommendations, and proposals; provided, however, that the governor or a representative may, at any time the governor deems it necessary, request and receive information from the ombudsman. Neither the ombudsman nor any staff member shall be compelled to testify in any court with respect to any matter involving the exercise of the ombudsman's official duties except as may be necessary to enforce the provisions of sections 241.41 to 241.45;

(d) investigate, upon a complaint or upon personal initiative, any action of an administrative agency;

(e) request and shall be given access to information in the possession of an administrative agency deemed necessary for the discharge of responsibilities;

(f) examine the records and documents of an administrative agency;

(g) enter and inspect, at any time, premises within the control of an administrative agency;

(h) subpoena any person to appear, give testimony, or produce documentary or other evidence which the ombudsman deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a

hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state;

(i) bring an action in an appropriate state court to provide the operation of the powers provided in this subdivision. The ombudsman may use the services of legal assistance to Minnesota prisoners for legal counsel. The provisions of sections 241.41 to 241.45 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. Nothing in sections 241.41 to 241.45 shall be construed to limit or affect any other remedy or right of appeal or objection nor shall it be deemed part of an exclusionary process; and

(j) be present at the commissioner of corrections parole and parole revocation hearings and deliberations.

**Subd. 1a. Actions against ombudsman.** No proceeding or civil action except removal from office or a proceeding brought pursuant to chapter 13 shall be commenced against the ombudsman for actions taken pursuant to the provisions of sections 241.41 to 241.45, unless the act or omission is actuated by malice or is grossly negligent.

**Subd. 2. Matters appropriate for investigation.** (a) In selecting matters for attention, the ombudsman should address particularly actions of an administrative agency which might be:

- (1) contrary to law or rule;
- (2) unreasonable, unfair, oppressive, or inconsistent with any policy or judgment of an administrative agency;
- (3) mistaken in law or arbitrary in the ascertainment of facts;
- (4) unclear or inadequately explained when reasons should have been revealed;
- (5) inefficiently performed;

(b) The ombudsman may also be concerned with strengthening procedures and practices which lessen the risk that objectionable actions of the administrative agency will occur.

**Subd. 3. Complaints.** The ombudsman may receive a complaint from any source concerning an action of an administrative agency. The ombudsman may, on personal motion or at the request of another, investigate any action of an administrative agency.

The ombudsman may exercise powers without regard to the finality of any action of an administrative agency; however, the ombudsman may require a complainant to pursue other remedies or channels of complaint open to the complainant before accepting or investigating the complaint.

After completing investigation of a complaint, the ombudsman shall inform the complainant, the administrative agency, and the official or employee of the action taken.

A letter to the ombudsman from a person in an institution under the control of an administrative agency shall be forwarded immediately and unopened to the ombudsman's office. A reply from the ombudsman to the person shall be delivered unopened to the person, promptly after its receipt by the institution.

No complainant shall be punished nor shall the general condition of the complainant's confinement or treatment be unfavorably altered as a result of the complainant having made a complaint to the ombudsman.

**Subd. 4. Recommendations.** (a) If, after duly considering a complaint and whatever material the ombudsman deems pertinent, the ombudsman is of the opinion that the complaint is valid, the ombudsman may recommend that an administrative agency should:

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a ruling;
- (4) explain more fully the action in question; or
- (5) take any other step which the ombudsman recommends to the administrative agency involved.

If the ombudsman so requests, the agency shall within the time the ombudsman specifies, inform the ombudsman about the action taken on the ombudsman's recommendation or the reasons for not complying with it.

(b) If the ombudsman has reason to believe that any public official or employee has acted in a manner warranting criminal or disciplinary proceedings, the ombudsman may refer the matter to the appropriate authorities.

(c) If the ombudsman believes that an action upon which a valid complaint is founded has been dictated by a statute, and the statute produces results or effects which are unfair or otherwise objectionable, the ombudsman shall bring to the attention of the governor and the legislature the ombudsman's view concerning desirable statutory change.

#### **241.441 ACCESS BY OMBUDSMAN TO DATA.**

Notwithstanding section 13.42 or 13.85, the ombudsman has access to corrections and detention data and medical data maintained by an agency and classified as private data on individuals or confidential data on individuals when access to the data is necessary for the ombudsman to perform the powers under section 241.44.

#### **241.45 PUBLICATION OF RECOMMENDATIONS; REPORTS.**

Subdivision 1. The ombudsman may publish conclusions and suggestions by transmitting them to the office of the governor. Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency, or any person, the ombudsman shall consult with that agency or person. When publishing an opinion adverse to an administrative agency, or any person, the ombudsman shall include in such publication any statement of reasonable length made to the ombudsman by that agency or person in defense or mitigation of the action.

Subd. 2. In addition to whatever reports the ombudsman may make on an ad hoc basis, the ombudsman shall at the end of each year report to the governor concerning the exercise of the ombudsman's functions during the preceding year.